

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
THIRTY-FIFTH DAY

Charleston, West Virginia, Tuesday, February 13, 2018

The Senate met at 11:16 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Chad Cowan, Pastor of Care Ministries, Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Glenn D. Jeffries, a senator from the eighth district.

Pending the reading of the Journal of Monday, February 12, 2018,

At the request of Senator Boley, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Clerk presented the following communication from a state agency as required by the provisions of law:

Health and Human Resources, Department of (Breast and Cervical Cancer Screening Program) (§16-33-6)

The Senate then proceeded to the third order of business.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2841—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §5F-2-8, relating to requiring board members to attend a board meeting in order to be compensated for that meeting; requiring the member to attest in writing to his or her attendance; requiring certain board members or officers to witness the same; and requiring records related to attendance of certain board meetings be kept for at least five years.

Referred to the Committee on Government Organization.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4142—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-4b, relating to providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority increases in annual pay: providing legislative findings; providing funding sources; providing that pay rates and employment requirements shall not be subject to procedures for state employees' grievances; providing for primacy of section; limiting private causes of action; and, providing that if employee will make more than the maximum allowable by the Division of Personnel for the pay grade, this salary increase shall still take effect, and that employee shall make more than the pay grade maximum.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4320—A Bill to amend and reenact §39B-1-114 of the Code of West Virginia, 1931, as amended; and to amend and reenact §39B-2-101 of said code, all relating to limiting the ability of an agent under a power of attorney to take self-benefiting actions; clarifying the presumption that an act is not within the scope of authority granted in a power of attorney when an agent benefits from the act to the detriment of an ancestor, spouse, heir, or descendant; and clarifying the prohibition against an agent exercising authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

Referred to the Committee on the Judiciary.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4380—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2018, to the Department of Agriculture, Fund 8736, fiscal year 2018, Organization 1400, and to the Department of Agriculture – State Conservation Committee, Fund 8783, fiscal year 2018, Organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4381—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2018, to the Department of Education, State Board of Education – School Lunch Program, fund 8713, fiscal year 2018, organization 0402, and to the Department of Education,

State Board of Education – Vocational Division, fund 8714, fiscal year 2018, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4384—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2018, to the Department of Transportation, Division of Public Transit, fund 8745, fiscal year 2018, organization 0805, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4386—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2018, to the Department of Health and Human Resources, Division of Health – Community Mental Health Services, fund 8794, fiscal year 2018, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 339, Relating to WV Retirement Health Benefit Trust Fund within PEIA.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 358, Relating to magistrate court costs for criminal proceedings.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 358 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating to authorizing the imposition of a \$25 clerk's fee for processing criminal bonds; establishing person responsible for payment of fee by type of bond issued; exempting personnel recognizance bonds from fee and providing that fees collected be deposited in the Magistrate Court Fund.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 398, Relating to requirements for making consumer loans.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 416, Making fishing for catfish with bare hands lawful.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 416 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to providing that noodling, or fishing for catfish using one's bare hands, is lawful.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill (Com. Sub. for S. B. 416), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 472, Providing funds to DHHR for local boards of health employee pay raises.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Craig Blair,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 495, Designating specific insurance coverages exempt from rate filing requirements.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 495 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-20-4 of the Code of West Virginia, 1931, as amended, relating to commercial insurance rates; and designating specific insurance coverages which are exempt from rate filing requirements.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 498, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 3004, Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4242, Clarifying the jurisdictional amount for removal of a civil action from magistrate court to circuit court.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills were introduced, read by their titles, and referred to the appropriate committees:

By Senators Ojeda, Beach, Facemire, Jeffries, Plymale, Prezioso, Romano, Stollings, and Unger:

Senate Bill 526—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-5-2a, relating to increasing pay to state employees; providing for a three-year period of salary increases for all state employees; and establishing a minimum annualized salary for state employees.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

By Senators Ojeda, Beach, Facemire, Jeffries, Plymale, Prezioso, Romano, Smith, Stollings, Takubo, and Baldwin:

Senate Bill 527—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §23-4D-1, §23-4D-2, §23-4D-3, §23-4D-4, §23-4D-5, and §23-4D-6, all relating to creating the West Virginia Black Lung Program; granting entitlement for pain and suffering for occupational pneumoconiosis; providing that 10 years' exposure as a miner is a conclusive presumption of entitlement to pain and suffering benefits; calculation of benefits; tax credit for benefits; imposing additional severance tax and tax on generation of electricity by solar and wind devices; creating the State Black Lung Fund; requiring the Governor and Legislature to cooperate with other states to attempt to recoup the federal excise tax on coal; and proposal of rules by the Insurance Commissioner and Tax Commissioner.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

By Senator Trump:

Senate Bill 528—A Bill to amend and reenact §51-2-1 of the Code of West Virginia, 1931, as amended, relating to providing for an additional circuit court judge for the nineteenth judicial circuit.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

By Senators Rucker, Azinger, Drennan, Maynard, Smith, Sypolt, and Cline:

Senate Bill 529—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, §5-30-5, §5-30-6, §5-30-7, and §5-30-8, all relating to creating the Citizen and State Accountability Act; authorizing departments, agencies, and officials of state or local government to apply for major and minor grant agreements; establishing the requirements for applying for the grant agreements; requiring reports; requiring written consent of major grant requests by the Governor; permitting the Governor to prohibit the submission of a minor grant application or prohibit the acceptance of any such grant; repealing all statutes that conflict with the Citizen and State Accountability Act; and defining terms.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Maynard and Cline:

Senate Bill 530—A Bill to amend and reenact §31D-1-131 of the Code of West Virginia, 1931, as amended, relating to the Secretary of State; and requiring the establishment of searchable databases for West Virginia registered corporation and sole proprietorship information.

Referred to the Committee on Government Organization.

By Senators Gaunch and Cline:

Senate Bill 531—A Bill to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as amended; and to amend and reenact §17B-3-6 of said code, all relating to eliminating the requirement that municipal courts wait at least 90 days prior to notifying the

Division of Motor Vehicles of a person's failure to appear or failure to pay assessed costs, fines, forfeitures, or penalties.

Referred to the Committee on the Judiciary.

By Senators Rucker, Azinger, Cline, Karnes, Swope, Ferns, and Sypolt:

Senate Bill 532—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to administering the ACT or SAT tests to all eleventh grade students.

Referred to the Committee on Education; and then to the Committee on Finance.

By Senators Trump and Cline:

Senate Bill 533—A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to equalizing the criminal penalties for intimidating and retaliating against public officers and employees, jurors, and witnesses; increasing penalty for intimidation of such persons to a felony; and establishing criminal penalties.

Referred to the Committee on the Judiciary.

Senators Drennan, Takubo, Stollings, Romano, Baldwin, Cline, Plymale, and Maynard offered the following resolution:

Senate Resolution 38—Designating February 13, 2018, as West Virginia Child Care Association Celebrating Children and Families Day at the Legislature.

Whereas, The State of West Virginia and the West Virginia Child Care Association have some of the best child welfare professionals and agencies in the country; and

Whereas, These child welfare professionals and agencies have dedicated their time to making life better for West Virginia's children and families; and

Whereas, These West Virginia professionals and agencies have a compassion that never ends, a hope for a better tomorrow and a dedication to their efforts over the long haul; and

Whereas, These West Virginia professionals and agencies work with West Virginia's child welfare and behavioral health stakeholders to eliminate policy barriers and day-to-day practices that reduce the effective utilization of in-state resources; and

Whereas, West Virginia Child Care Association's professionals and agencies do everything possible to provide opportunities for West Virginia's children and families to receive treatment and services in West Virginia, where they can remain in their communities, with their families, and connected to their support systems; and

Whereas, These professionals and agencies are regulated by the State of West Virginia through legislation and by oversight of the Department of Health and Human Resources and Department of Education; and

Whereas, By using West Virginia child welfare professionals and agencies our state is doing what is best for West Virginia's children and their families; and

Whereas, These West Virginia child care professionals and agencies advocate for and deliver services and support to provide for the safety, wellbeing and opportunities for children and families to achieve their hopes, dreams, and goals; and

Whereas, These professionals and agencies provide family driven, youth-guided, culturally competent, and trauma-informed care for the citizens of West Virginia; and

Whereas, The West Virginia professionals, who care for the at-risk children in our state and the organizations that exist to impact the lives of these children and their families, provide quality care in our communities; and

Whereas, This quality care is provided in a variety of settings, including community agencies, hospitals, residential treatment, family and treatment foster care, educational institutions, and seeks to provide resources and guidance that promotes the safety, wellbeing, and permanency of West Virginia's children and families; and

Whereas, West Virginia's child welfare providers dedicate themselves to excellence in their profession through licensing, advocacy, education, and professional development; and

Whereas, The Senate recognizes and appreciates the outstanding dedication, devotion, and care of the West Virginia Child Care Association professionals and agencies for their caring, commitment, and for making a difference in the lives of children in the State of West Virginia, their families, and communities; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 13, 2018, as West Virginia Child Care Association Celebrating Children and Families Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Child Care Association.

At the request of Senator Drennan, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Drennan regarding the adoption of Senate Resolution 38 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:31 a.m., the Senate recessed to present Senate Resolution 38.

The Senate reconvened at 11:35 a.m. today and resumed business under the sixth order.

Senators Ferns, Takubo, Stollings, Baldwin, Cline, and Plymale offered the following resolution:

Senate Resolution 39—Designating the week of February 11-17, 2018, as WV 211 Awareness Week.

Whereas, the State of West Virginia recognizes the challenges families face; and

Whereas, Every hour of every day someone in West Virginia needs essential services; and

Whereas, WV 211 keeps an accurate and comprehensive database that can be used to find critical resources to meet the needs of West Virginians that can improve and save lives; and

Whereas, WV 211 is efficient, confidential, free, and easy to use and connects people with a resource specialist who can help find services and local resources for community-based health services, disaster and crisis information, and volunteer opportunities; and

Whereas, WV 211 responds to real people with real help 24 hours a day, seven days a week; and

Whereas, Last year, WV 211 handled over 45,000 calls for help; therefore, be it

Resolved by the Senate:

That the Senate hereby designates the week of February 11-17, 2018, as WV 211 Awareness Week; and, be it

Further Resolved, That the Senate extends its sincere gratitude and appreciation to WV 211 for its dedicated public service to the citizens of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of WV 211.

At the request of Senator Ferns, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Ferns, at 11:38 a.m., the Senate recessed to present Senate Resolution 39.

The Senate reconvened at 11:41 a.m. today and, at the request of Senator Unger, and by unanimous consent, returned to the second order of business and the introduction of guests.

At the request of Senator Maynard, unanimous consent being granted, the Senate returned to the consideration of

Senate Bill 498, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

Having been reported from the Committee on Natural Resources and, under the original double committee reference, referred to the Committee on Government Organization in earlier proceedings today,

At the request of Senator Gaunch, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of Senate Bill 498.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 18, Balentine Brothers Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

Senate Concurrent Resolution 19, John B. Short Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 57, Relating to third-party litigation financing.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 57) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for Senate Bill 290, Relating to DEP standards of water quality and effluent limitations.

Having been read a third time on yesterday, Monday, February 12, 2018, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Committee Substitute for Senate Bill 290 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 290) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Senate Bill 365, Relating to Young Entrepreneur Reinvestment Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 365) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for Senate Bill 375, Relating to farmers markets.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 375 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 375) passed.

On motion of Senator Sypolt, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 375—A Bill to amend and reenact §19-35-2, §19-35-3, and §19-35-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-5, all relating to farmers markets; removing local health departments from farmers market vendor permit process; transferring rules and regulations for farmers markets, cottage foods, acidified foods, nonpotentially hazardous foods, and exempted foods from Department of Health and Human Resources to Department of Agriculture; requiring rules to set forth quantity limitations for cottage foods; clarifying consignment farmers markets; defining terms; requiring registration of farmers markets; expanding farmers market vendor permit to permit the sale of cottage foods; establishing fees for farmers market vendor permits; clarifying certain farm and food products require other permits; permitting local health departments to

inspect and suspend food establishment permits in certain circumstances; permitting the Department of Agriculture to establish regulations permitting the sampling of certain farm and food products; permitting local health departments to sample and inspect farmers market vendors in certain circumstances; permitting local health departments to invoke cessation of production in certain circumstances; clarifying scope, labeling, and sources of cottage foods; requiring online farmers market sales be delivered in person; permitting home, farm, community, or commercial kitchen to be used by cottage foods vendor as determined by the Department of Agriculture; and clarifying that a farmers market vendor permit is not required to sell nonpotentially hazardous foods and exempted foods.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for Senate Bill 446, Creating Agritourism Responsibility Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 446 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 446) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2546, Allowing replacement costs of employer provided property to be deducted from an employee’s final paycheck if the property is not returned.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 2612, Repealing section relating to unattended motor vehicles and penalties.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Boso—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2612) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 36, Relating generally to DNA testing.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 288, Regulating cremation, embalming and directing of funeral service.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 321, Relating to powers and duties of Public Land Corporation.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 397, Creating crime of impersonating blind or disabled person.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page one, section nine, line thirteen, by striking out “§5-15-9(a)” and inserting in lieu thereof “§5-15-4”.

The bill (Com. Sub. for S. B. 397), as amended, was then ordered to engrossment and third reading.

Senate Bill 407, Licensing and approval of child care programs.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 408, Licensing of nursing homes and assisted living residences.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 411, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 469, Converting Addiction Treatment Pilot Program to permanent program.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 473, Requiring insurance coverage for the prescription drug Varenicline.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Eng. Com. Sub. for House Bill 2831, Relating to the reconstitution of the Driver's Licensing Advisory Board.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

The following bills and joint resolution on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for Com. Sub. for Senate Bill 273, Reducing use of certain prescription drugs.

Com. Sub. for Com. Sub. for Senate Bill 341, Relating generally to WV Appellate Reorganization Act of 2018.

Com. Sub. for Com. Sub. for Senate Bill 347, Relating to operation of motorboats.

Com. Sub. for Senate Bill 348, Allowing for disposal of service weapons of special DNR police officers.

Com. Sub. for Com. Sub. for Senate Bill 355, Dissolving IS&C Division under Office of Technology.

Com. Sub. for Senate Bill 370, Exempting nonpaid volunteers at ski areas from workers' compensation benefits.

Com. Sub. for Senate Bill 458, Prohibiting political subdivisions from enacting regulations or legal requirements relating to employer-employee relationship.

Com. Sub. for Senate Bill 461, Extending time to file petition for motor fuel excise tax refund.

Senate Bill 524, Relating to disposition of complaint proceedings.

Senate Bill 525, Relating to certification for emergency medical training - mining.

Com. Sub. for Com. Sub. for Senate Joint Resolution 3, Judicial Budget Oversight Amendment.

And,

Eng. Com. Sub. for House Bill 4162, Granting authority to the State Conservation Committee to contract for flood response.

The Senate proceeded to the eleventh order of business and the introduction of guests.

On motion of Senator Ferns, a leave of absence for the day was granted Senator Mann.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 12:08 p.m., the Senate adjourned until tomorrow, Wednesday, February 14, at 11 a.m.

SENATE CALENDAR

Wednesday, February 14, 2018
11:00 AM

THIRD READING

- Eng. Com. Sub. for S. B. 36 - Relating generally to DNA testing
- Eng. Com. Sub. for S. B. 288 - Regulating cremation, embalming and directing of funeral service (original similar to HB4167)
- Eng. Com. Sub. for S. B. 321 - Relating to powers and duties of Public Land Corporation (original similar to HB4348, HB4437)
- Eng. Com. Sub. for S. B. 397 - Creating crime of impersonating blind or disabled person
- Eng. S. B. 407 - Licensing and approval of child care programs - (Com. title amend. pending)
- Eng. Com. Sub. for S. B. 408 - Licensing of nursing homes and assisted living residences - (Com. title amend. pending)
- Eng. S. B. 411 - Removing Commissioner of Bureau for Public Health from State Board of Sanitarians
- Eng. Com. Sub. for S. B. 469 - Converting Addiction Treatment Pilot Program to permanent program
- Eng. Com. Sub. for S. B. 473 - Requiring insurance coverage for the prescription drug Varenicline
- Eng. Com. Sub. for H. B. 2546 - Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned
- Eng. Com. Sub. for H. B. 2831 - Relating to the reconstitution of the Driver's Licensing Advisory Board

SECOND READING

- Com. Sub. for Com. Sub. for S. B. 273 - Reducing use of certain prescription drugs (original similar to HB4263)
- Com. Sub. for Com. Sub. for S. B. 341 - Relating generally to WV Appellate Reorganization Act of 2018 (original similar to HB4004)
- Com. Sub. for Com. Sub. for S. B. 347 - Relating to operation of motorboats (original similar to HB4274)
- Com. Sub. for S. B. 348 - Allowing for disposal of service weapons of special DNR police officers

- Com. Sub. for Com. Sub. for S. B. 355 - Dissolving IS&C Division under Office of Technology (original similar to HB4339)
- Com. Sub. for S. B. 370 - Exempting nonpaid volunteers at ski areas from workers' compensation benefits
- Com. Sub. for S. B. 458 - Prohibiting political subdivisions from enacting regulations or legal requirements relating to employer-employee relationship
- Com. Sub. for S. B. 461 - Extending time to file petition for motor fuel excise tax refund
- S. B. 524 - Relating to disposition of complaint proceedings
- S. B. 525 - Relating to certification for emergency medical training - mining
- Com. Sub. for Com. Sub. for S. J. R. 3 - Judicial Budget Oversight Amendment (original similar to HJR101, HJR104, HJR109)
- Eng. Com. Sub. for H. B. 4162 - Granting authority to the State Conservation Committee to contract for flood response

FIRST READING

- S. B. 339 - Relating to WV Retirement Health Benefit Trust Fund within PEIA (original similar to HB4272).
- Com. Sub. for S. B. 358 - Imposing fee for processing criminal bonds
- S. B. 398 - Relating to requirements for making consumer loans
- Com. Sub. for S. B. 495 - Designating specific insurance coverages exempt from rate filing requirements
- S. B. 498 - Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest
- Eng. Com. Sub. for H. B. 3004 - Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 4242 - Clarifying the jurisdictional amount for removal of a civil action from magistrate court to circuit court

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2018

Wednesday, February 14, 2018

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|--------|---------------------------------|-------------|
| 2 p.m. | Pensions | (Room 451M) |
| 2 p.m. | Agriculture & Rural Development | (Room 208W) |